



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**VIA ELECTRONIC AND FIRST CLASS MAIL**

Charles R. Spies, Esq.  
Clark Hill, PLC  
601 Pennsylvania Ave NW  
North Building, Suite 1000  
Washington, DC 20004

**AUG 15 2017**

RE: MUR 6860  
Terri Lynn Land for Senate and  
Kathy Vosburg in her official capacity as  
treasurer;  
Terri Lynn Land;  
Dan Hibma

Dear Mr. Spies:

Based on a complaint and on information ascertained in the normal course of carrying out its supervisory responsibilities, on June 16, 2016, the Federal Election Commission (the "Commission") found reason to believe that your clients violated 52 U.S.C. §§ 30116(a)(1)(A) and (f) and 30104(b)(3)(A), and authorized entering into pre-probable cause conciliation with your clients. Although we engaged in some conciliation discussions, on January 5, 2017, you informed us that your clients wished to end pre-probable cause conciliation.

Therefore, after considering all the evidence available to the Commission, the Office of the General Counsel is prepared to recommend that the Commission find probable cause to believe that violations of the Act have occurred.

The Commission may or may not approve the General Counsel's recommendation. Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within 15 days of your receipt of this notice, you may file with the Secretary of the Commission a brief (ten copies if possible) stating your clients' position on the issues and replying to the brief of the General Counsel. (Three copies of such brief should also be forwarded to the Office of the General Counsel, if possible.) The General Counsel's brief and any brief which you may submit will be considered by the Commission before proceeding to a vote of whether there is probable cause to believe a violation has occurred.

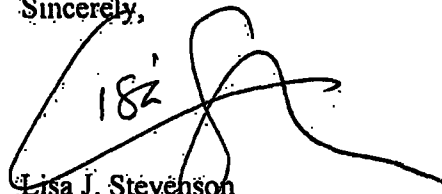
If you are unable to file a responsive brief within 15 days, you may submit a written request for an extension of time. All requests for extensions of time must be submitted in writing five days prior to the due date, and good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days and may require that your clients toll the running of statute of limitations before granting such an extension.

In addition, you may also request an oral hearing before the Commission. *See* Procedural Rules for Probable Cause Hearings, 72 Fed. Reg. 64919 (Nov. 19, 2007) and Amendment of Agency Procedures for Probable Cause Hearings, 74 Fed. Reg. 55443 (Oct. 28, 2009). Hearings are voluntary, and no adverse inference will be drawn by the Commission based on a respondent's decision not to request such a hearing. Any request for a hearing must be submitted along with your reply brief and must state with specificity why the hearing is being requested and what issues you expect to address. The Commission will notify you within 30 days of your request for a hearing as to whether or not the request has been granted. If you request a probable cause hearing, the Commission may request that you toll the statute of limitations in connection with that hearing. *Id.* at 64,920.

A finding of probable cause to believe requires that the Office of the General Counsel attempt for a period of not less than 30, but not more than 90 days, to settle this matter through a conciliation agreement. If we are unable to reach an agreement after 30 days, the Commission may institute a civil suit in United States District Court and seek payment of a civil penalty. *See* 52 U.S.C. § 30109(a)(6)(A).

Should you have any questions, please contact Ana Peña-Wallace, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

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Lisa J. Stevenson  
Acting General Counsel

Enclosure  
Brief

In the Matter of	:	)	
		)	
Terri Lynn Land for Senate and Kathy Vosburg		)	MUR 6860
in her official capacity as treasurer		)	
Terri Lynn Land		)	
Dan Hibma		)	

## I. STATEMENT OF THE CASE

As set forth below, Respondents admit that Land did not have sufficient funds in her personal checking account to make the \$700,000 in contributions to the Committee and that Hibma wired funds from his own personal account for the purpose of covering those draws from Land's account. Accordingly, the record indicates that Hibma made \$700,000 in excessive contributions to Land. Thus, the Office of the General Counsel is prepared to recommend that the Commission find probable cause to believe that Hibma violated 52 U.S.C. § 30116(a)(1)(A).

1 by making excessive contributions, Land and the Committee violated 52 U.S.C. § 30116(f) by  
2 accepting those excessive contributions, and the Committee violated 52 U.S.C. § 30104(b)(A) by  
3 inaccurately reporting the source of the \$700,000.

4 **II. FACTS**

5 Terri Lynn Land was a candidate for U.S. Senate in Michigan in the 2014 election. She  
6 declared her candidacy on July 10, 2013 and designated Terri Lynn Land for Senate as her  
7 authorized committee.<sup>1</sup> On August 1, 2013, Land filed her 2013 Personal Financial Disclosure  
8 Report ("PFD Report") with the Senate, covering January 1, 2012 to July 30, 2013. Land's 2013  
9 PFD Report identified liquid assets valued between \$116,003 and \$315,000, and other assets  
10 valued between \$647,008 and \$1.38 million. On May 15, 2014, Land filed her 2014 PFD Report  
11 covering January 1, 2013 to May 15, 2014. Her 2014 PFD Report identified liquid assets valued  
12 between \$45,003 and \$150,000, and other assets valued between \$646,007 and \$1.356 million.

13 According to the Committee's disclosure reports, by July 2014, Land had made a total of  
14 \$2.9 million in contributions to the Committee as follows:

Date	Amount	Disclosure Report
08/13/2013	\$50,000	2013 October Quarterly
09/30/2013	\$100,000	2013 October Quarterly
09/30/2013	\$100,000	2013 October Quarterly
09/30/2013	\$750,000	2013 October Quarterly
12/31/2013	\$600,000	2013 Year-End
03/31/2014	\$100,000	2014 April Quarterly
06/30/2014	\$1,200,000	2014 July Quarterly
<b>Total</b>	<b>\$2,900,000.00</b>	

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<sup>1</sup> See Statement of Candidacy (July 10, 2013).

1 These receipts were disclosed as contributions from the candidate.<sup>2</sup> The Committee's disclosure  
2 reports also show that Land's husband, Dan Hibma, made two contributions of \$2,600 each to  
3 Land's campaign on July 1, 2013.<sup>3</sup>

4 The Respondents acknowledge that Land did not have sufficient personal funds to make  
5 all the contributions described above. They specifically admit that Land wrote checks drawn on  
6 her personal checking account to make a \$600,000 contribution on December 31, 2013, and a  
7 \$100,000 contribution on March 31, 2014, but at the time she wrote the checks, her personal  
8 bank account did not contain sufficient funds to cover either of those draws.<sup>4</sup> In a sworn  
9 affidavit Hibma states that on December 31, 2013, he wired \$610,000 from his personal checking  
10 account, held solely in his name, to Land's personal checking account, held solely in her name,  
11 "for the purpose of providing funds for a check for her authorized committee, Terri Lynn Land  
12 for Senate."<sup>5</sup> Similarly, on March 31, 2014, he wired \$100,000 from his personal checking  
13 account to Land's personal checking account "for the purpose of providing funds for a check for  
14 \$100,000 for her authorized committee, Terri Lynn Land for Senate."<sup>6</sup>

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<sup>2</sup> Terri Lynn Land for Senate, 2013 October Quarterly Report (Oct. 14, 2013), 2013 Year-End Report (Jan. 31, 2014), 2014 April Quarterly Report (Apr. 15, 2014) and 2014 July Quarterly Report (July 15, 2014).

<sup>3</sup> Terri Lynn Land for Senate, 2013 October Quarterly Report (Oct. 14, 2013).

<sup>4</sup> *See Sua Sponte* at 2.

<sup>5</sup> Affidavit of Dan Hibma ¶ 2 (May 19, 2017).

<sup>6</sup> *Id.* ¶ 3.

1     **III.     LEGAL ANALYSIS**

2             **A.     There is Probable Cause to Believe that Hibma made, and Land and the**  
3                     **Committee Accepted, Excessive Contributions in Violation of the Act**  
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5             The Act provides that no person shall make contributions to any federal candidate and his  
6     or her authorized political committee aggregating in excess of the contribution limit designated  
7     for each election cycle,<sup>7</sup> which was \$2,600 for the 2014 election cycle.<sup>8</sup> The Act further provides  
8     that no candidate or candidate committee shall knowingly accept excessive contributions.<sup>9</sup>

9             Although candidates may themselves make unlimited contributions from their own  
10    “personal funds” to their authorized campaign committees,<sup>10</sup> the Act’s contribution limits apply  
11    to family members, including spouses. In *Buckley v. Valeo*, the United States Supreme Court  
12    stated that Congress may subject a candidate’s family members to the Act’s contribution limits.<sup>11</sup>

13    The Court cited to the legislative history of the Act, stating:

14             It is the intent of the conferees that members of the immediate family of any  
15             candidate shall be subject to the contribution limitations established by this  
16             legislation. ... The immediate family member would be permitted merely to make  
17             contributions to the candidate in amounts not greater than \$1,000 for each election  
18             involved.<sup>12</sup>  
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7             52 U.S.C. § 30116(a)(1), (c).

8             See 11 C.F.R. §§ 110.1(b)(1)(i), 110.17(b).

9             52 U.S.C. § 30116(f).

10            See 11 C.F.R. § 110.10. “Personal funds” include: (a) amounts derived from assets that, under applicable State law, at the time the individual became a candidate, the candidate had legal right of access to or control over, and to which the candidate had legal and rightful title or an equitable interest; (b) income received during the current election cycle, which includes salary from employment, income from investments, and “gifts of a personal nature that had been customarily received by the candidate prior to the beginning of the election cycle”; and (c) a portion of assets that are jointly owned by the candidate and spouse. 52 U.S.C. § 30101(26); see also 11 C.F.R. § 100.33.

11            424 U.S. 1, 53 n. 59 (1976).

12            Id. at 52 n.57 (citing to S. Conf. Rep. No. 93-1237, p. 58 (1974), U.S. Code Cong. & Admin. News 1974, p. 5627.).

1 The Court added, “[a]lthough the risk of improper influence is somewhat diminished in the case  
2 of large contributions from immediate family members, we cannot say that the danger is  
3 sufficiently reduced to bar Congress from subjecting family members to the same limitations as  
4 nonfamily contributors.”<sup>13</sup> In numerous past cases, the Commission has conciliated with  
5 respondents where spouses or other family members made excessive contributions to the  
6 candidate’s campaign.<sup>14</sup>

7 None of the funds in question here constitute Land’s “personal funds” under the Act.  
8 Respondents admit that Hibma provided \$710,000 of his own personal funds to Land for the  
9 purpose of covering checks she wrote to make \$700,000 in contributions to her federal campaign  
10 committee. These funds were wired well after Land had already become a candidate, and were  
11 provided because Land’s personal account, held solely in her name, lacked adequate funds to  
12 cover the checks she issued in December 2013 and March 2014. Notably, Hibma wired these  
13 funds from an account held solely in his name, after he had already contributed the maximum  
14 amount permitted by the Act to the Committee for the 2014 election cycle. Under these  
15 circumstances, there is probable cause to believe that Hibma made, and Land and the Committee  
16 knowingly accepted, excessive contributions in violation of 52 U.S.C. § 30116(a)(1)(A) and (f).

<sup>13</sup> *Id.* at 53 n.59.

<sup>14</sup> See, e.g., MUR 6417 (Huffman) (conciliation with candidate’s spouse); MUR 5348 (Condon) (conciliation with candidate’s father); MURs 5334, 5341, and 5524 (O’Grady) (conciliation with candidate’s spouse); MUR 5429 (Weiner) (reason to believe findings against candidate’s parents but did not conciliate with them due to expiration of the statute of limitations); and MUR 5138 (Ferguson) (conciliation with candidate’s parents).

**B. There is Probable Cause to Believe that the Committee Failed to Report a \$700,000 Contribution from Hibma**

The Act requires committee treasurers to file reports of receipts and disbursements.<sup>15</sup>

These reports must include, *inter alia*, the identification of each person who makes a contribution or contributions that have an aggregate amount or value in excess of \$200 during an election cycle, in the case of an authorized committee of a federal candidate, together with the date and amount of any such contribution.<sup>16</sup>

Here, the Committee's 2013 Year-End Report and 2014 April Quarterly Report identify Land as the contributor of both contributions. Because Land used funds derived from assets belonging solely to Hibma to make the \$700,000 in contributions to her campaign, the Committee should have identified those as contributions from Hibma and not Land. Therefore, there is probable cause to believe that the Committee violated 52 U.S.C. § 30104(b)(3)(A) by inaccurately identifying the contributor of those funds in its reports filed with the Commission.

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<sup>15</sup> 52 U.S.C. § 30104(b).

<sup>16</sup> *Id.* § 30104(b)(3)(A).

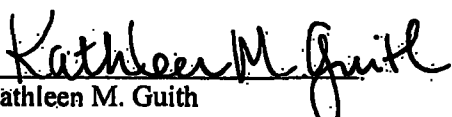


IV. CONCLUSION


Based on the foregoing, the Office of the General Counsel is prepared to recommend that there is probable cause to believe that Dan Hibma violated 52 U.S.C. § 30116(a)(1)(A); that Terri Lynn Land and Terri Lynn Land for Senate and Kathy Vosburg in her official capacity as treasurer violated 52 U.S.C. § 30116(f); and that Terri Lynn Land for Senate and Kathy Vosburg in her official capacity as treasurer violated 52 U.S.C. § 30104(b)(A).

8/15/2017  
Date

  
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